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C O N F I D E N T I A L SECTION 01 OF 03 COLOMBO 000057

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DEPARTMENT FOR SCA/INS

E.O. 12958: DECL: 01/11/2017
TAGS: PREL PGOV PTER PHUM MOPS CE

SUBJECT: SRI LANKA: GOVERNMENT PROMISES DEVOLUTION PACKAGE
ROLLOUT IN JANUARY

REF: A. COLOMBO 1640

1B. COLOMBO 1322
1C. COLOMBO 1127

Classified By: Ambassador Robert O. Blake, Jr. Reasons: 1.4 (b, d)

¶1. (C) SUMMARY: The government has announced a new deadline for presenting a proposal for a political solution to Sri Lanka's ethnic problem. The President and Council of Ministers have asked the All-Party Representative Committee to endorse enhanced powers for the Northern and Eastern Provinces under the 13th Amendment to Sri Lanka's Constitution by January 23. The APRC would continue to work on more far-reaching proposals, which would require a 2/3 majority in Parliament. However APRC chair Tissa Vitharana is reportedly reluctant to risk his personal credibility by issuing a watered-down proposal. He may attempt to issue two reports by the end of January - one for a modest administrative reform ceding certain powers to the provinces and oriented toward language and equal employment rights; the other a complete proposal for a system of devolved power that would amount to federalism - although avoiding the word "federal," which is anathema to the nationalist constituencies. This would likely have to be over the objections of the Sinhalese supremacist JVP and other minor players who have been blocking consensus. The government has apparently not thought through whether or when it would submit its multi-state devolution scheme as the basis for future negotiations with the LTTE. End summary.

FOREIGN MINISTRY BRIEFING

¶2. (C) Foreign Minister Rohitha Bogollagama convoked Co-Chair Ambassadors on the afternoon of January 10 to explain the government's plans to roll out devolution proposals from the All Parties Representative Committee (APRC) by January 23. The Minister stressed the government wants "words translated into deeds" and said tangible results must be achieved. The Minister declined to provide specifics on the nature and content of the proposals to be unveiled on

the 23rd. Co-Chair Ambassadors pressed the Minister to explain whether the proposals would be implemented unilaterally or whether they would form the basis for renewed talks with the LTTE. The Minister was evasive on this point.

He said that "the peace agenda must remain," but the government must first put implementation mechanisms in place.

¶13. (C) Pressed on the nature of the implementation mechanisms, Bogollagama consulted with government lawyers who were present and then explained that the APRC was a committee of party representatives that were appointed by the umbrella All Parties Conference (APC). The APC had met 58 times. Its draft proposals would go to the APC on January 23. The APC would then bring the proposals to the cabinet of ministers and the President. The cabinet would then deliberate and forward the proposals to Parliament. Some parts of the proposals could be implemented immediately by executive order to give practical effect to the 13th Amendment. Others would require a Constitutional Amendment and therefore the support of two-thirds of Parliament. Asked again whether the government planned to engage the LTTE and what role the government envisioned for the Co-Chairs and Norwegians, Bogollagama repeated that the government needs an implementation mechanism put in place first, but that "nothing prevents us from engaging in talks" at a later stage.

BASIL RAJAPAKSA PROVIDES DETAILS

¶14. (C) Ambassador and Pol Chief then met the President's brother, Basil Rajapaksa, at the latter's request. Rajapaksa clarified that the APRC was being asked to work on parallel tracks. 80% of the substance of the proposals was already

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agreed, Rajapaksa noted, and much of that could be implemented by executive order. The President and party leaders had asked the APRC to ready this part of the proposal by January 23. However, the APRC would have to continue working on the remaining 20% of contentious issues, which were far-reaching proposals that would require a 2/3 parliamentary majority.

¶15. (C) Rajapaksa said that the government still wanted a "reasonable solution for the Tamil people." However, it could not afford to alienate southern Sinhalese, thereby opening the door for the extremist JVP to seize control of the agenda. That is why, he said, the government had chosen to abrogate the CFA first, so that the Sinhalese would understand that this President would not fall into the trap of appeasing the LTTE. Now it was necessary to win the support of the majority for real devolution. The government had decided to use the APRC process as a "vehicle to implement the 13th Amendment," he said. This meant administrative reform, primarily around the issue of bilingualism, language and employment rights, in both the government and police sectors. The second part of the plan was to articulate three levels of government - central, provincial and local. Finally, the center would devolve 90% of the powers in the "concurrent list" to the provinces.

¶16. (C) Ambassador asked whether the GSL would ever present these proposals to the LTTE as the basis for negotiation, or would simply implement them unilaterally. Basil appeared to improvise, saying that the GSL would present them to the LTTE and implement them simultaneously. He said the GSL knew that some important LTTE members (he specifically cited "Sea Tiger" head Soosai) did not want to fight to the finish, but despaired of ever having productive negotiations with Prabhakaran. He also indicated the GSL had had some limited contacts with Diaspora LTTE members and would try to engage the LTTE through them, although he too was vague about when and where. When pressed, Basil admitted that the government had not thought this part of the plan through yet. Ambassador then pressed Basil on human rights, suggesting that it would be all but impossible to win support of

moderate Tamils for any government devolution proposal absent an improvement on this front. Basil conceded that much remained to be done, and - significantly - accepted that the government had to take responsibility for the grave human rights situation in Jaffna, given the military's strong presence and complete control, rather than pretend that the violations there were the work of the LTTE.

A TAMIL PERSPECTIVE

¶7. (C) Dr. K. Vigneswaran, a Tamil member of the "Experts' Committee" which produced the first draft of the APRC proposals and who still works closely with APRC chair Vitharana, told Pol later that he had a two-hour meeting with Vitharana the same day. Vigneswaran confided that the President had instructed Vitharana to report out the implementation of the 13th amendment as the APRC product. However, Vitharana was resisting, fearing damage to his reputation if he should endorse anything so pallid as the solution to the country's ethnic problem. (Note: Vitharana is already on record as saying that there was no need for the APRC to meet 58 times to work out a plan that requires no constitutional change and that the President can implement by executive order at any time.) The President had summoned Vitharana for a late meeting tonight with key ministers, Vigneswaran said, where the pressure on him to comply would be intense. Vigneswaran was urging Vitharana to stand firm.

¶8. (C) Instead, Vigneswaran, Vitharana and other proponents of a federal solution within the APRC are planning to present two papers simultaneously on January 23. One will be an "administrative proposal" for maximum implementation of the

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13th amendment (note: more or less as Basil described it), with the executive ceding most of the powers on the "concurrent list⁸ to the provinces. This can be done by "gazette notification," the equivalent of a U.S. executive order. This does not require parliamentary approval. The catch, Vigneswaran noted, is that these enhanced powers for the provinces can just as easily be taken away again - which has been one of the persistent fears of the minority communities. Vitharana will also attempt to produce the full APRC package by the 23rd, which will include ambitious plans for constitutional reform that will require a 2/3 majority in Parliament, and for some elements, a referendum. To do this, Vitharana will have to leave behind a few parties in the government (including the monk-based JHU and the tiny Communist Party who have so far blocked consensus on these proposals).

¶9. (C) COMMENT: The Foreign Minister's rather incoherent briefing to the Co-Chairs danced around the issue of whether the APRC proposals, when ready, would ever be presented to the LTTE. This leaves open the very real possibility the GSL will not engage the LTTE and simply unilaterally implement devolution. The private discussion with Basil Rajapaksa was far more clear and satisfactory. This is likely because Basil has been an integral part of the decision-making on this crucial issue. Bogollagama has not, and may have felt uncomfortable with some of the messages he was told to deliver. Ambassador emphasized in both meetings that unless the GSL engages the LTTE at some point, the Tigers will have no incentive to lay down their arms and become part of the solution.

BLAKE